



DECISION MEMORANDUM FOR THOMAS J. VILSACK, SECRETARY

THROUGH:

Harris D. Sherman
Under Secretary, NRE

DEC 2 2010

FROM:

Thomas L. Tidwell
Chief

NOV 22 2010

SUBJECT:

Renewal of the Charter for the Recreation Resource Advisory Committees

FILE CODE:

1350/2300

ISSUE:

The Forest Service intends to renew the charter for the Recreation Resource Advisory Committees (Recreation RACs) in order to continue carrying out the requirements of the Federal Lands Recreation Enhancement Act. The Recreation RACs operate in the Pacific Northwest, Pacific Southwest, Eastern, and Southern Regions of the Forest Service and the State of Colorado.

BACKGROUND:

The Federal Lands Recreation Enhancement Act (Pub. L. No. 108-447) (REA), signed into law December 8, 2004, gives the Secretary of Agriculture the authority to establish, modify, charge, and collect recreation fees at Federal recreational lands. To do so, REA requires the Secretary to establish Recreation RACs in each State or region or use existing resource advisory committees to obtain advice regarding recreation fees on Federal recreational lands and waters managed by the USDA Forest Service. A Recreation RAC does not need to be established for a State where the Secretary determines, in consultation with the Governor of the State, insufficient interest exists to ensure representation of balanced points of view. The REA gives the Secretary of the Interior the same authority in regard to lands managed by the Bureau of Land Management (BLM).

More specifically, the Recreation RACs, and any other committee that takes on the responsibility of providing advice on recreation fees, make recommendations on the following:

1. The implementation of a standard amenity recreation fee or an expanded amenity recreation fee or the establishment of a specific recreation fee site,
2. The elimination of a standard amenity recreation fee or an expanded amenity recreation fee,

3. The expansion or limitation of the recreation fee program,
4. The implementation of noncommercial, individual special recreation permit fees, and
5. The implementation of fee-level changes (increases or decreases).

The Forest Service and BLM elected to jointly use existing BLM RACs in the states of Arizona, Idaho, the Dakotas, Montana, Nevada, New Mexico, and Utah. The Forest Service also chartered new Recreation RACs for the Eastern, Southern, Pacific Northwest, and Pacific Southwest Regions, and the State of Colorado. The Forest Service is using an existing advisory board for the Black Hills National Forest in South Dakota. In addition, the Governors of three states – Alaska, Nebraska and Wyoming – requested that their States be exempt from the Recreation RAC requirement, and the two Departments concurred with the exemptions.

Members were appointed to the Forest Service established Recreation RACs in February 2007 for the Pacific Northwest, Eastern, and Southern Regions, and July 2007 for the Pacific Southwest Region and State of Colorado.

SUMMARY

The Forest Service recommends that the Secretary of Agriculture renew the five Recreation RACs for the Eastern, Southern, Pacific Northwest, and Pacific Southwest Regions, and the State of Colorado to provide advice and recommendations to the Secretary regarding recreation fees.

DECISION BY THE SECRETARY

Approve: *OV* Date: 2/28/11

Disapprove: _____

Discuss with me: _____

Reviewed by: _____

Enclosures

**U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250**

DEPARTMENTAL REGULATION		NUMBER: DR-1042-152.
SUBJECT: RECREATION RESOURCE ADVISORY COMMITTEES	DATE:	
	OPI: Forest Service	

1. AUTHORITY

The charter for the five Recreation Resource Advisory Committees (Recreation RACs) is hereby reestablished pursuant to the implementation of Section 4 of the Federal Lands Recreation Enhancement Act (Pub. L. No. 108-447). The Recreation RACs are in the public interest and established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App II. The Recreation RACs are also in accordance with an Interagency Agreement established between the USDA Forest Service and the USDI Bureau of Land Management (BLM) in 2006, which enables each agency to present fee proposals to advisory committees or councils managed by the other agency.

The Secretary of Agriculture (Secretary) is reestablishing the following Recreation RACs to make recommendation concerning recreation fees in the States and territories within their boundaries:

- (1) Eastern Region Recreation Resource Advisory Committee,
- (2) Southern Region Recreation Resource Advisory Committee,
- (3) Pacific Southwest Region Recreation Resource Advisory Committee,
- (4) Colorado Recreation Resource Advisory Committee, and
- (5) Pacific Northwest Recreation Resource Advisory Committee.

This regulation supersedes DR 1042-152, dated October 2, 2008.

2. PURPOSE AND SCOPE

The purpose of the Recreation RACs is to provide recommendations to the Secretary on recreation fees on lands and waters managed by the Forest Service and BLM in the regions identified above.

3. DUTIES

- a. The Recreation RACs shall be solely advisory in nature.
- b. The Recreation RACs, and any other committee that takes on the responsibility of providing advice on recreation fees, make recommendations on the following:
 - (1) The implementation of a standard amenity recreation fee or an expanded amenity recreation fee or the establishment of a specific recreation fee site;
 - (2) The elimination of a standard amenity recreation fee or an expanded amenity recreation fee;
 - (3) The expansion or limitation of the recreation fee program;
 - (4) The implementation or elimination of noncommercial, individual special recreation permit fees; and
 - (5) The implementation of fee-level changes (increases or decreases).
- c. Recreation RACs do not have the authority to make recommendations on certain aspects of fee programs, including, but not limited to:
 - (1) Recreation fee sites operated by a concessionaire or contractor such as campgrounds or reservation fees assessed by the national recreation reservation system; and
 - (2) Commercial permits such as outfitting and guiding; and recreation group event permits, which are issued as either special use permits by the Forest Service or special recreation permits by the BLM, such as bike races.

4. REPORTS

The Recreation RACs report to the Secretary of Agriculture or the Secretary of the Department of Interior through the appropriate Forest Service Regional Forester or BLM State Director.

5. SUPPORT

Clerical and administrative support for the Recreation RACs will be provided by the Forest Service.

6. ESTIMATED ANNUAL OPERATIONS COSTS/STAFF YEARS

- a. Members of the Recreation RACs shall serve without compensation, but with reimbursement of travel expenses in accordance with Federal per diem rates for attendance at the meetings. All expenses will be subject to approval of the Designated Federal Officer. Subcommittee members will not be reimbursed travel and per diem expenses for attendance at Recreation RAC meetings or subcommittee meetings called by the DFO in consultation with the Chairperson and with an agenda approved by the DFO.**
- b. Annual operating costs are estimated as follows based on meeting twice annually and also includes staff costs at the national, regional, and in some cases forest level:**
 - (1) Eastern Region Recreation RAC—Between \$89,000 and \$115,000 per year including 1.2 to 1.8 staff years of support per committee;**
 - (2) Southern Region Recreation RAC—Between \$91,000 and \$117,000 per year including 1.2 to 1.8 staff years of support per committee;**
 - (3) Pacific Southwest Region Recreation RAC (California)— Between \$89,000 including \$115,000 per year including 1.4 to 2 staff years of support per committee;**
 - (4) Colorado Recreation RAC—Between \$91,000 and \$117,000 per year including 0.5 to 1 staff years of support per committee; and**
 - (5) Pacific Northwest Region Recreation RAC (Oregon and Washington)—Between \$89,000 and \$115,000 per year including 1.4 to 2 staff years of support per committee.**
- c. If costs exceed 5 percent of the estimates given above for any of the Recreation RACs, the DFO for that Recreation RAC must report the new cost information in a letter to the Chief of the Forest Service.**

7. DESIGNATED FEDERAL OFFICER

- a. The Secretary of Agriculture shall appoint a full-time employee as the Designated Federal Officer (DFO) for each of the Recreation RACs under Sections 10(e) and (f) of the Federal Advisory Committee Act, 5 U.S.C. App. The DFO will:**
 - (1) Approve or call all of the advisory committee and subcommittee meetings;**

- (2) Prepare and approve all meeting agendas;
- (3) Attend all committee and subcommittee meetings;
- (4) Adjourn any meeting when he or she determines adjournment to be in the public interest; and
- (5) Chair meetings when directed to do so by the Secretary of Agriculture.

8. ESTIMATED NUMBER AND FREQUENCY OF MEETINGS

- a. The Recreation RACs are required to meet annually, but may meet as often as is necessary to complete their business.
- b. As required by FACA, the Recreation RACs will hold open meetings unless the Secretary of Agriculture determines that a meeting or a portion of a meeting may be closed to the public in accordance with Subsection c of Section 522(b) of Title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the committee.
- c. A Recreation RAC must have eight members in attendance to hold a meeting. Section 10g must be met before the committee can make fee recommendations. The Recreation RACs shall not hold any meetings except at the call of, or with the advance approval of the DFO.
- d. Notice of each meeting shall be provided in the Federal Register at least 15 days before each meeting and one week in advance in a local newspaper of record. Committee members will be notified personally of the date, time, and place of each meeting.
- e. The meetings of the Recreation RACS may be held in person, by telephone, or electronic means. All open meetings shall include an opportunity and have a clear process for public comment.

9. DURATION AND TERMINATION

- a. The functions of the Recreation RACs cannot be accomplished in less than 2 years. However, this regulation will expire in 2 years from the date of filing unless renewed by proper authority and appropriate action.
- b. If the Secretary, in consultation with the Governor of a State or each of the Governors of the States within the jurisdiction of a Recreation RAC, determines that insufficient interest exists to continue to ensure that

participation on the Recreation RAC is balanced in terms of the points of view represented, the Secretary will terminate the Recreation RAC.

- c. The Secretary will remove a State from the Recreation RAC's deliberations if a State's Governor requests that action based on the State's lack of interest in continuing its participation.

10. MEMBERSHIP AND DESIGNATION

- a. The Committee will be comprised of 11 members approved by the Secretary of Agriculture. Committee membership will be fairly balanced including the representation of the interests identified in the Act within each of the three membership groups. Nominees will be sought through a solicitation process that includes, but is not limited to, nominees submitted by the State Governors and local county officials.
- b. Members may be appointed and or reappointed to 3-year terms.
- c. The Committee shall include representation in the following areas:
 - (1) Five persons who represent recreation users and that include, as appropriate, persons representing—
 - (a) Winter motorized recreation such as snowmobiling;
 - (b) Winter non-motorized recreation such as snowshoeing, cross-country and downhill skiing, and snowboarding;
 - (c) Summer motorized recreation such as motorcycling, boating, and off-highway vehicle driving;
 - (d) Summer non-motorized recreation such as backpacking, horseback riding, mountain biking, canoeing, and rafting; and
 - (e) Hunting and fishing.
 - (2) Three persons who represent interest groups that include, as appropriate:
 - (a) Motorized outfitters and guides;
 - (b) Nonmotorized outfitters and guides; and
 - (c) Local environmental groups.
 - (3) Three persons who are—
 - (a) State tourism official representing the State;

- (b) A representative of affected Indian tribes; and
 - (c) A representative of affected local government interests.
- d. If a Recreation RAC member fails to attend (in person or by telephonic or electronic means) two consecutive official meetings, the Secretary or the Designated Federal Officer (DFO) may remove that member from the Recreation RAC.
- e. An alternate for a member will be appointed to fill a vacancy should the member find it necessary to leave the Recreation RAC. An alternate shall not take a member's place in the member's absence.
- f. If a vacancy occurs that cannot be filled by an alternate, the Secretary shall appoint a member to fill the vacancy as soon as practicable from a list of nominees received from the Governors and the designated county officials not later than 2 months after notification. The list of nominees submitted by the Governor or county officials may be the original list from which appointments were made or an updated list. The appointment will be made in the same manner as the original appointment and, if possible, the member appointed shall represent the same interest as that of the member who left the Recreation RAC. The member appointed to fill the vacancy shall complete the term of the original member.
- g. The Forest Service Regional Foresters, or designees, for each identified Recreation RAC, as appropriate, shall serve as the DFO of their respective Recreation RACs, in accordance with sections 10(e) and (f) of the Federal Advisory Committee Act. The relevant BLM State Director, or designee, will serve as an ex officio BLM official to the Recreation RACs for meetings when BLM recreation fees are on the agenda. Recreation fee recommendations concerning the BLM will be presented directly to the ex officio BLM official.
- h. The approval of a majority of the members of each of the three groups identified in the Act and documentation of public support for the recommendation shall be required to submit a recreation fee recommendation to the Secretary. The Recreation RACs shall determine whether there is general public support for the recommendation.
- i. The Chairperson of each Recreation RAC shall be selected by majority vote of the Recreation RAC from among its members for a period of time as determined by the Recreation RAC.
- j. The Recreation RACs may create and operate subcommittees recommended by a majority of the committee members and approved by the DFO to facilitate the work of the Recreation RACs. Subcommittees,

which may vary widely in structure, composition, and purpose, report directly to the Recreation RAC that formed it. The DFO, or designee, must attend subcommittee meetings. Subcommittees shall keep meeting minutes that include attendees, public comment, and recommendations that are presented to the Recreation RAC.

- k. Consistent with applicable laws and USDA regulations, the Recreation RACs may adopt such by-laws or rules of operation as it deems advisable.
- l. Equal opportunity practices, consistent with USDA policy, shall be followed in all membership appointments to the committee. To ensure that the recommendations of the committee have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

11. RECORDSKEEPING

The records for the Recreation RACs shall be handled in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552.

END